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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

KAREN NALBANDIAN,

Plaintiff and Respondent,

v.

SUGGEY KOSOYAN,

Defendant and Appellant.

B297557

(Los Angeles County  
Super. Ct. No. 19VER000152)

APPEAL from an order of the Superior Court of  
Los Angeles County, Marilyn M. Mordetzky, Commissioner.  
Affirmed.

Law Offices of Majd & Associates, Farbood Majd, and  
Daniel De Soto for Defendant and Appellant.

Paul Kujawsky for Plaintiff and Respondent.

## INTRODUCTION

Karen Nalbandian filed a petition for a civil harassment restraining order against Suggey Kosoyan, the estranged wife of Nalbandian's boyfriend. At the hearing Nalbandian testified Kosoyan threatened and assaulted her and repeatedly drove by her apartment. The trial court granted the petition and issued a restraining order. Kosoyan appeals, and we affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### A. *Nalbandian Files a Petition for a Restraining Order*

Nalbandian filed a petition for a civil harassment restraining order against Kosoyan on January 28, 2019, alleging Kosoyan harassed her on multiple occasions and assaulted her at a gas station in August 2017. Nalbandian attached to her petition two text messages Kosoyan sent her: one from April 2017 calling Nalbandian a "hooker" and one from June 2017 stating, "You've destroyed my marriage one day Karma will get you fucking whore . . . . I'll make sure all the community know who Karine Nalbandian is nothing but a whore . . . ." Nalbandian also attached pictures of injuries she sustained on the night of the alleged assault.

### B. *Nalbandian and Kosoyan Testify at the Hearing on the Petition*

The trial court held a hearing on March 15, 2019. Nalbandian, Kosoyan, and Kosoyan's 17-year-old son testified. The man in the middle of the dispute, Abraham Kosoyan, did not.

Nalbandian testified that on the day of the assault she was in the office of a gas station owned by Abraham, whom she described as her “boyfriend,” when Kosoyan came into the office with her three children and said, “Oh, this is the bitch that you’re screwing with.” According to Nalbandian, Kosoyan pulled her hair, punched her in the face, and dragged her to the floor, and Kosoyan’s son put “his hands around” her.

Nalbandian managed to escape and call the 911 emergency operator. Before the police arrived, however, Kosoyan “found [Nalbandian] again” and continued to hit her and pull her hair. Kosoyan got into her car, drove toward Nalbandian, and said, “I’m going to kill you,” but the car “stopped” before it hit Nalbandian. The police arrived and arrested Kosoyan. Nalbandian testified she lost some of her hair, suffered scratches and a head injury, and experienced headaches after the attack.

Kosoyan described the altercation at the gas station differently. She testified that when she walked into the office, Nalbandian “stood up and grabbed [her] from [the] hair.” She denied a second altercation with Nalbandian outside the office or that she drove her car toward Nalbandian. Kosoyan admitted that the police arrested her and took her to the police station, but stated that, when the police arrived at the gas station, they simply handcuffed her, told her she was not allowed to talk, and did not ask her any questions. She testified the prosecutor never filed charges against her.

Kosoyan’s son testified Nalbandian initiated the gas station altercation by grabbing Kosoyan’s hair. He stated that he grabbed Nalbandian while he and his father tried to separate the two women and that Nalbandian left 30 seconds later. He said he did not see Nalbandian again.

Nalbandian and Kosoyan also gave different accounts of another incident between them, this one involving a car accident in May 2017. Nalbandian testified that Kosoyan “chased” Nalbandian and Abraham while they were driving in Hollywood. According to Nalbandian, Kosoyan drove by Abraham and Nalbandian heading in the opposite direction, made a “U-turn in the middle of [the] street,” and began chasing them. During the chase Kosoyan followed Nalbandian and Abraham through an alley where Kosoyan “hit three or four other cars.” Nalbandian called the police. Nalbandian introduced pictures from her phone that she testified she took the day of the chase showing Kosoyan’s car and a tow truck.

Kosoyan testified she was in an accident on the day of the alleged car chase because her brakes failed to respond, but she denied seeing Nalbandian or Abraham prior to the accident or chasing them. She also testified the police never came to the scene. Kosoyan’s son partially corroborated Kosoyan’s account, but he stated he saw his father before the accident and pointed him out to Kosoyan. Kosoyan’s son testified, however, that Kosoyan did not chase Abraham and Nalbandian and that he did not see Abraham after the accident occurred.

Finally, Nalbandian testified about other harassing conduct by Kosoyan. Nalbandian testified Kosoyan called her many times, most recently between August 2018 and October 2018, and said things like “look what I’m going to do to you” or “you better watch your back.” Kosoyan admitted she called Nalbandian once in April 2017 before sending her the text message attached to

Nalbandian's petition, but denied she ever called Nalbandian after that.<sup>1</sup>

Nalbandian also testified Kosoyan downloaded pictures of Nalbandian from Nalbandian's account on a photo- and video-sharing social networking service and "sent them to Abraham's friends' wives" and others, calling Nalbandian names such as "bitch," "whore," "mistress," "gold digger," and "hooker." And Nalbandian testified she frequently saw Kosoyan drive by her apartment, including one time when Kosoyan stopped and called Nalbandian on the apartment building's intercom and asked Nalbandian to come outside. When Nalbandian responded and said she was calling the police, Kosoyan left. Nalbandian also testified she knew Kosoyan drove by her apartment "every single day" or "every other day" because Abraham received text messages from his son indicating the son knew when Abraham (or Abraham's car) was at Nalbandian's apartment building. Kosoyan testified she did not know where Nalbandian lived and had never been to her apartment.

### C. *The Trial Court Issues a Restraining Order*

On March 20, 2019 the trial court granted the petition and issued a restraining order against Kosoyan. The court found credible Nalbandian's testimony about the August 2017 altercation at the gas station and ruled Kosoyan's actions constituted unlawful violence under Code of Civil Procedure

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<sup>1</sup> Kosoyan admitted she sent the two text messages attached to Nalbandian's petition.

section 527.6.<sup>2</sup> The court found that, on the day of the car accident in Hollywood, Kosoyan saw Nalbandian and Abraham, “changed her plans,” and went to find them, although the court found Kosoyan had not necessarily “chased them.” The court disbelieved Kosoyan’s description of the incident. The court also found credible Nalbandian’s testimony that Kosoyan regularly drove by Nalbandian’s apartment. The court ruled these incidents showed a “course of conduct” by Kosoyan evidencing “a continuing purpose to harass” Nalbandian.

The court issued a restraining order prohibiting Kosoyan from contacting Nalbandian, attempting to obtain Nalbandian’s address or location, and going within 100 yards of Nalbandian, her home, her place of employment, and her vehicle. The order expires on March 20, 2022. Kosoyan timely appealed.<sup>3</sup>

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<sup>2</sup> Undesignated statutory references are to the Code of Civil Procedure.

<sup>3</sup> In her notice of appeal Kosoyan purports to appeal from a “judgment” entered on April 23, 2019. The trial court did not enter a judgment on that date. In her opening brief Kosoyan states she is appealing the civil harassment restraining order entered on March 20, 2019. A civil harassment restraining order entered under section 527.6, subdivision (i), “is appealable as an appeal from an order granting an injunction.” (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 187; see § 904.1, subd. (a)(6).) We liberally construe the notice of appeal to correct its typographical errors so that the notice states the appeal is from the March 20, 2019 civil harassment restraining order. (See *Etheridge v. Reins Internat. California, Inc.* (2009) 172 Cal.App.4th 908, 913, fn. 7; Cal. Rules of Court, rule 8.100(a)(2).)

## DISCUSSION

### A. *Applicable Law and Standard of Review*

Section 527.6 provides ““an expedited procedure for enjoining acts of ‘harassment’”” under the statute. (*Russell v. Douvan* (2003) 112 Cal.App.4th 399, 403.) If, after a hearing, “the judge finds by clear and convincing evidence that unlawful harassment exists” (§ 527.6, subd. (i)), and if “it appears from the evidence that the harassment is likely to recur in the future” (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 189), “an order shall issue prohibiting the harassment” (§ 527.6, subd. (i)).

“[T]he factual findings necessary to support” a civil harassment restraining order “are reviewed for substantial evidence.” (*Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1226; accord, *Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 497; *R.D. v. P.M.*, *supra*, 202 Cal.App.4th at p. 188.)<sup>4</sup> “We resolve all conflicts in the evidence in favor of . . . the prevailing party, and indulge all legitimate and reasonable inferences in favor of upholding the trial court’s findings.” (*Parisi*, at p. 1226; see *Reynauld v. Technicolor Creative Servs. USA, Inc.* (2020) 46

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<sup>4</sup> The California Supreme Court has granted review in a conservatorship case to decide whether, in reviewing a trial court order that must be based on clear and convincing evidence, the reviewing court is simply required to find substantial evidence to support the trial court’s order or find substantial evidence from which the trial court could have made the necessary findings based on clear and convincing evidence. (*Conservatorship of O.B.* (2019) 32 Cal.App.5th 626, review granted May 1, 2019, S254938, argued and submitted, May 18, 2020.) Under either standard, substantial evidence supported the trial court’s ruling.

Cal.App.5th 1007, 1015 [in applying the substantial evidence ““standard of review, we ‘view the evidence in the light most favorable to the prevailing party, giving it the benefit of every reasonable inference and resolving all conflicts in its favor’””]; *Maaso v. Signer* (2012) 203 Cal.App.4th 362, 371 [“Substantial evidence includes reasonable inferences drawn from the evidence in favor of the judgment.”].) “But whether the facts, when construed most favorably in [the prevailing party’s] favor, are legally sufficient to constitute civil harassment under section 527.6” is a “question[ ] of law subject to de novo review.” (*R.D.*, at p. 188; see *Parisi*, at p. 1226; *Harris*, at p. 497.)

B. *Substantial Evidence Supported the Restraining Order*

1. *Substantial Evidence Supported the Trial Court’s Finding Kosoyan Harassed Nalbandian*

Section 527.6, subdivision (b)(3), defines “harassment” as “unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.” Substantial evidence supported the trial court’s ruling that Kosoyan’s conduct toward Nalbandian constituted harassment under this standard.

There was substantial evidence Kosoyan engaged in “unlawful violence” against Nalbandian. “Unlawful violence” under section 527.6 includes assault or battery. (§ 527.6, subd. (b)(7).) Nalbandian testified that Kosoyan, without provocation, assaulted and battered her at the gas station by punching her, pulling her hair, and attempting to run her over



with her car. (See *People v. Dealba* (2015) 242 Cal.App.4th 1142, 1149 [battery includes “punching, kicking, or tripping the victim”]; *People v. Golde* (2008) 163 Cal.App.4th 101, 109 [driving a car toward someone can be an assault]; see also *Lips v. City of Hollywood* (11th Cir. 2009) 350 Fed.Appx. 328, 333, fn. 9 [“hair-pulling is considered a battery”].) Nalbandian’s testimony was substantial evidence of unlawful violence by Kosoyan. (See *In re Marriage of Mix* (1975) 14 Cal.3d 604, 614 [“The testimony of a witness, even the party [herself], may be sufficient.”]; *Doe v. Regents of University of California* (2016) 5 Cal.App.5th 1055, 1074 [“the testimony of a single witness, even that of a party, is sufficient to provide substantial evidence to support a finding of fact”].)

Substantial evidence also supported the trial court’s finding Kosoyan directed a course of conduct at Nalbandian that seriously alarmed, annoyed, or harassed her. Nalbandian testified that Kosoyan, after seeing Nalbandian and Abraham driving together, drove after them and chased them into an alley. The court reasonably inferred Kosoyan was following them. Nalbandian also testified that she often saw Kosoyan drive by her apartment and that Abraham received text messages from his son indicating Abraham was at Nalbandian’s apartment. The court reasonably inferred from this testimony Kosoyan had driven by and continued to drive by Nalbandian’s apartment. (See *Ensworth v. Mullvain* (1990) 224 Cal.App.3d 1105, 1112 [former patient’s harassment of her psychologist included following the psychologist, “circl[ing] around her office building,” and conducting surveillance on her house].)

Other evidence demonstrated Kosoyan engaged in a course of conduct intended to harass Nalbandian. Kosoyan admitted she

sent the text messages attached to Nalbandian's petition, in which she called Nalbandian a "hooker" and a "whore," accused Nalbandian of destroying her marriage, and threatened that one day "Karma" would "get" Nalbandian. Nalbandian testified she received phone calls from Kosoyan making similar statements. The court could reasonably infer Kosoyan sent these text messages and made the phone calls with the intent to harass Nalbandian. (See *Brekke v. Wills* (2005) 125 Cal.App.4th 1400, 1413 [defendant's harassment of his girlfriend's mother included taunting the mother during a telephone call]; *Ensworth v. Mullvain*, *supra*, 224 Cal.App.3d at p. 1111 [former patient harassed her psychologist with "repeated phone calls and threatening letters"].) Similarly, the court could reasonably infer Kosoyan intended to harass Nalbandian when she downloaded pictures of Nalbandian from Nalbandian's social networking service account and sent them to others, calling Nalbandian disparaging names. (See *R.D. v. P.M.*, *supra*, 202 Cal.App.4th at pp. 186, 189 [former patient harassed her therapist by distributing flyers with disparaging messages about the therapist at the therapist's office and the school of the therapist's son]; *Brekke*, at pp. 1403, 1413 [defendant's harassment of his girlfriend's parents included sending the girlfriend "vile and vitriolic letters" about the parents that he intended them to see].)

In the face of this substantial evidence, Kosoyan takes issue with several of the trial court's stated reasons for believing Nalbandian's testimony about the accident in Hollywood and the altercation at the gas station. For example, Kosoyan asserts the trial court improperly speculated about Kosoyan's motives, "penalized" Kosoyan "for not producing evidence to show she was not charged" for the altercation at the gas station, and

“penalized” Kosoyan again for not producing a videotape of the gas station incident. Kosoyan also complains about the court’s statement that Kosoyan purportedly called Abraham before following him and Nalbandian in the car incident, claiming no one testified Kosoyan called him.

Even if the evidence was not entirely consistent with some reasons the court gave for believing Nalbandian’s testimony about certain events (a proposition Kosoyan has not necessarily shown), there was still substantial evidence to support the trial court’s findings. (See *Coral Construction, Inc. v. City and County of San Francisco* (2010) 50 Cal.4th 315, 336 [“we review the trial court’s rulings and not its reasoning”]; *Linton v. County of Contra Costa* (2019) 31 Cal.App.5th 628, 635 [““we review the validity of the ruling and not the reasons given””]; *Kaldenbach v. Mutual of Omaha Life Ins. Co.* (2009) 178 Cal.App.4th 830, 843 [“Ordinarily, appellate review is not concerned with the trial court’s reasoning but only with whether the result was correct or incorrect.”].) Nalbandian and Kosoyan (and Kosoyan’s son) gave conflicting testimony about several events; the trial court believed Nalbandian. Because Nalbandian’s testimony about Kosoyan’s conduct was neither physically impossible nor clearly false, we defer to the trial court’s credibility findings. (See *Bloxham v. Saldinger* (2014) 228 Cal.App.4th 729, 750 [““To warrant the rejection of the statements given by a witness who has been believed by a trial court, there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions.””].) “We are ‘not a second trier of fact.’” (*Orozco v. WPV San Jose, LLC* (2019) 36 Cal.App.5th 375, 391.)

Moreover, the trial court gave other reasons for crediting Nalbandian's testimony and not crediting Kosoyan's testimony, and Kosoyan does not address those reasons. For example, the court cited Nalbandian's testimony she went to the hospital and the corroborating pictures from the night of the altercation showing "bruising on her arm, her neck, and her head." The court cited the lack of evidence Kosoyan suffered injuries. The court referred to Kosoyan's testimony that she discovered Abraham had been at their house with another woman in April 2017 (the same month Kosoyan sent Nalbandian the text message calling her a hooker), which the court reasonably inferred gave Kosoyan a motive to follow Nalbandian and Abraham when she saw them driving together. The court relied on the inconsistency between the testimony of Kosoyan and her son about the accident in Hollywood and the pictures Nalbandian took of the accident on her phone corroborating her version of the accident. And the court found Kosoyan's testimony about the accident physically improbable: Kosoyan testified she hit other cars because her brakes failed, yet she (and her son) testified that after the accident she drove the car and parked at a gas station. The court's credibility findings were well supported by the evidence.

2. *Substantial Evidence Supported the Trial Court's Finding Kosoyan Was Likely To Harass Nalbandian in the Future*

To obtain "an injunction restraining future conduct" under section 527.6, the petitioner must show, in addition to unlawful harassment, that "the harassment is likely to recur in the future." (See *R.D. v. P.M.*, *supra*, 202 Cal.App.4th at p. 189;

*Russell v. Douvan*, *supra*, 112 Cal.App.4th at pp. 402-403.) The evidence supporting the trial court's finding Kosoyan was likely to continue harassing Nalbandian may not have been as strong as the evidence supporting the trial court's finding Kosoyan had harassed Nalbandian. But it was still substantial.

The gas station altercation was particularly serious. (See *Russell v. Douvan*, *supra*, 112 Cal.App.4th at p. 404 ["There may well be cases in which the circumstances surrounding a single act of violence may support a conclusion that future harm is highly probable."].) Nalbandian suffered serious injuries, and Kosoyan was arrested. In addition, there was evidence Kosoyan repeatedly harassed Nalbandian. Kosoyan sent at least two harassing text messages to Nalbandian, chased (or at least followed) Nalbandian in the car for no legitimate reason, downloaded pictures from Nalbandian's social networking service account and sent them to other people while calling Nalbandian derogatory names, called Nalbandian to threaten her, frequently drove by her apartment, and at least once called her on the intercom of her apartment and asked her to come outside. (See *R.D. v. P.M.*, *supra*, 202 Cal.App.4th at p. 190 [that the respondent "had in the past engaged in a course of conduct demonstrating her intention to harass" was relevant to whether harassment was likely to recur].)

Kosoyan's primary argument is Nalbandian "failed to offer any credible evidence . . . Kosoyan was committing any acts of harassment against her at the time the restraining order was issued." But Nalbandian was not required to show Kosoyan continued to harass up to the date of the hearing on the civil harassment petition. While the respondent's conduct at the time of the hearing is relevant to whether the court should issue an

injunction, “there is no hard-and-fast rule that a party’s discontinuance of illegal behavior makes injunctive relief against him or her unavailable.” (*Robinson v. U-Haul Co. of California* (2016) 4 Cal.App.5th 304, 315.) Moreover, there was evidence Kosoyan had harassed Nalbandian recently. Nalbandian testified she received a threatening phone call from Kosoyan as late as October 2018, a few months before she filed the petition in January 2019. Nalbandian also testified Abraham would regularly receive text messages from his son indicating Abraham’s car was at Nalbandian’s apartment. The court could reasonably infer Kosoyan’s son obtained this information because Kosoyan was driving by Nalbandian’s apartment.

Finally, Kosoyan argues Nalbandian’s testimony about the text messages Abraham received from his son was inadmissible hearsay and could not “constitute substantial evidence on its own.” Kosoyan, however, forfeited this argument by failing to object to Nalbandian’s testimony. (See *Crouch v. Trinity Christian Center of Santa Ana, Inc.* (2019) 39 Cal.App.5th 995, 1020 [“The failure to object or move to strike evidence at trial forfeits any challenge to the evidence on appeal.”]; *Duronslet v. Kamps* (2012) 203 Cal.App.4th 717, 726 [respondent in a civil harassment proceeding under section 527.6 forfeited the argument the trial court erred in admitting hearsay evidence by failing to object].) Moreover, even if the court erred in admitting Nalbandian’s testimony about the son’s text messages,<sup>5</sup> any such

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<sup>5</sup> Section 527.6, subdivision (i), provides that, during the hearing on a petition for a civil harassment restraining order, “the judge shall receive any testimony that is relevant, and may make an independent inquiry.” At least one court has held this

error was harmless because, even without this testimony, the evidence of Kosoyan's other harassing acts were substantial evidence Kosoyan would likely harass Nalbandian again absent a restraining order.

### DISPOSITION

The order is affirmed. Nalbandian is to recover her costs on appeal.

SEGAL, J.

We concur:

PERLUSS, P. J.

DILLON, J.\*

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“authorize[s] the court to admit hearsay evidence during hearings.” (*Duronslet v. Kamps, supra*, 203 Cal.App.4th at p. 729.)

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.